



DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2012-0050]

Qualification of Drivers; Exemption Applications; Epilepsy and Seizure Disorders;

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of applications for exemption, request for comments.

SUMMARY: FMCSA announces receipt of applications from 5 individuals for an exemption from the prohibition against persons with a clinical diagnosis of epilepsy or any other condition which is likely to cause a loss of consciousness or any loss of ability to operate a commercial motor vehicle (CMV) from operating CMVs in interstate commerce. If granted, the exemptions would enable these individuals with seizure disorders to operate CMVs in interstate commerce.

DATES: Comments must be received on or before [Insert date 30 days after date of publication in the FEDERAL REGISTER].

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) Docket ID FMCSA-2012-0050 using any of the following methods:

- Federal eRulemaking Portal: Go to <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.
- Mail: Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue, S.E., West Building Ground Floor, Room W12-140, Washington, DC 20590-0001.

- Hand Delivery: West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, S.E., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.
- Fax: 1-202-493-2251.

Each submission must include the Agency name and the docket ID for this Notice. Note that DOT posts all comments received without change to <http://www.regulations.gov>, including any personal information included in a comment. Please see the Privacy Act heading below.

Docket: For access to the docket to read background documents or comments, go to <http://www.regulations.gov> at any time or Room W12-140 on the ground level of the West Building, 1200 New Jersey Avenue, S.E., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The FDMS is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

Privacy Act: Anyone may search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review the DOT's complete Privacy Act Statement in the Federal Register published on April 11, 2000 (65 FR 19477-78; Apr. 11, 2000). This information is also available at <http://Docketinfo.dot.gov>.

FOR FURTHER INFORMATION CONTACT: Elaine Papp, Chief, Medical Programs Division (202) 366-4001, or via email at fmcsamedical@dot.gov, or by letter FMCSA, Room W64-113, Department of Transportation, 1200 New Jersey Avenue, S.E., Washington, DC 20590-0001. Office hours are from 8:30 a.m. to 5 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 31315 and 31136(e), FMCSA may grant an exemption for a 2-year period if it finds “such exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption.” The statutes also allow the Agency to renew exemptions at the end of the 2-year period. The five individuals listed in this notice have recently requested an exemption from the epilepsy prohibition in 49 CFR 391.41(b)(8), which applies to drivers who operate CMVs as defined in 49 CFR 390.5, in interstate commerce. Section 391.41(b)(8) states that a person is physically qualified to drive a commercial motor vehicle if that person has no established medical history or clinical diagnosis of epilepsy or any other condition which is likely to cause the loss of consciousness or any loss of ability to control a commercial motor vehicle.

FMCSA provides medical advisory criteria for use by medical examiners in determining whether drivers with certain medical conditions should be certified to operate commercial motor vehicles in intrastate commerce. The advisory criteria indicates that if an individual has had a sudden episode of a non-epileptic seizure or loss of consciousness of unknown cause which did not require anti-seizure medication, the

decision whether that person's condition is likely to cause the loss of consciousness or loss of ability to control a CMV should be made on an individual basis by the medical examiner in consultation with the treating physician. Before certification is considered, it is suggested that a 6-month waiting period elapse from the time of the episode.

Following the waiting period, it is suggested that the individual have a complete neurological examination. If the results of the examination are negative and anti-seizure medication is not required, then the driver may be qualified.

In those individual cases where a driver had a seizure or an episode of loss of consciousness that resulted from a known medical condition (e.g., drug reaction, high temperature, acute infectious disease, dehydration, or acute metabolic disturbance), certification should be deferred until the driver has fully recovered from that condition, has no existing residual complications, and is not taking anti-seizure medication.

Drivers with a history of epilepsy/seizures off anti-seizure medication and seizure-free for 10 years may be qualified to operate a CMV in interstate commerce. Interstate drivers with a history of a single unprovoked seizure may be qualified to drive a CMV in interstate commerce if seizure-free and off anti-seizure medication for a 5-year period or more.

SUMMARY OF APPLICATIONS

Todd Brock

Mr. Brock is a 53 year-old driver in the state of Colorado. He previously drove delivery trucks for UPS. He was diagnosed with a seizure disorder and given anti-seizure medication. He continues to take anti-seizure medication with the dosage and frequency remaining the same for 3 years. Mr. Brock has been seizure free for 9 years, having his

last seizure January 2003. If granted the exemption, he would return to driving a delivery truck for UPS.

Darren Carroll

Mr. Carroll is a 37 year-old CMV driver in the state of Virginia. Mr. Carroll had a single seizure event in March 2008 following a blow to the back of his head. He has never been on anti-seizure medication, remaining seizure free since the single seizure. His last seizure was March 2008.

Charles Johnson

Mr. Johnson is a 36 year-old CMV driver in the state of Kansas. Mr. Johnson was diagnosed with petite mal seizures as an infant. These seizures last only a few seconds and he has not had any grand mal seizures. His last seizure was in April 2011. He has been on anti-seizure medication with the dosage and frequency remaining the same for 4 months. If granted the exemption, he would return to driving a school bus. His physician has released him to return to driving.

Diana Mugford

Ms. Mugford is a 44 year-old CDL driver in the state of Vermont. She was diagnosed with complex partial seizures and given anti-seizure medication. Her last seizure was in 2004. She continues to take anti-seizure medication with the dosage and frequency remaining the same for 8 years. She has remained seizure free for 8 years. If granted the exemption, she would return to be driving tractor trailer trucks in interstate commerce. Her physician endorses her receiving an exemption and states he feels “she would among the safer drivers on the highway.”

James Wiggins

Mr. Wiggins is a 57 year-old CMV driver in the state of Florida. Mr. Wiggins had a single seizure in March 2008 and was diagnosed with a brain tumor. He had the tumor removed in April 2008 and put on anti-seizure medication. He has been off of any anti-seizure medication for 3 years and has remained seizure free for 4 years. If granted the exemption, he would return to driving tractor trailer trucks.

Request for Comments

In accordance with 49 U.S.C. 31315 and 31136(e), FMCSA requests public comment from all interested persons on the exemption applications described in this notice. We will consider all comments received before the close of business on the closing date indicated earlier in the notice.

Issued on: February 22, 2012

Larry W. Minor
Associate Administrator for Policy

[FR Doc. 2012-4869 Filed 02/28/2012 at 8:45 am; Publication Date: 02/29/2012]